



United States Department of the Interior

M/047/013

BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
www.ut.blm.gov

IN REPLY REFER TO:
3556 (UT-923)
UTU-0115850

MAY 28 2003

CERTIFIED MAIL--Return Receipt Requested

Mr. Gordon Ziegler
Ziegler Mineral and Chemical Corp
100 Jerico Quadrangle, Suite 140
Jerico, New York 11753

Re: Mine Plan Modification Approval, Federal Gilsonite Lease UTU-0115850

Dear Mr. Ziegler:

MINE MODIFICATION PLAN APPROVAL

Background- The Bureau of Land Management (BLM) Utah State Office, received your mine plan modification on September 18, 2002. A Determination of NEPA adequacy was performed by the Vernal Field Office on May 15, 2003. The lessee is responsible for abiding by the mine plan approval previously granted including all mitigation incorporated as part of the mine plan. This approval does not constitute any approvals required by the Division of Oil, Gas and Mining or any other permits necessary to commence operations.

Approval- Your proposed mining plan modification is approved as follows:

1. The shaft on the north Vein CNV-1 can have a larger headframe (Derrick) placed over the shaft and a hoist house can be placed as shown on the enclosed map.
2. The C-4 shaft located near the highway is approved to have a headframe (Derrick), hoist house, and gilsonite bin system to mine from the shaft as shown on the enclosed map.
3. Roads to the hoist houses and the shafts are also approved as per the enclosed map.

The following original conditions of approval and notice(s) still apply;

Existing Conditions of Approval-

1. **As Built Drawings.** The Lessee will submit to the Deputy State Director, Natural Resources, BLM Utah State Office, at the above address, a scaled map showing the construction and the survey coordinates (State Plane or metes and bounds description) of each of the mine features, buildings, and vein, within 90 days after construction is complete. The surveyor that conducts

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the survey will be licensed and shall stamp the drawing. Land features will be shown on the drawing. These will include but are not limited to section corners, roads, and section lines. An updated map will be sent to BLM within 90 days after construction is completed on any new sites.

2. **Surface Pillar.** If a surface pillar is left, the lessee shall leave a minimum of 35' between the surface and the upper most workings in the mine. Any proposed surface pillar size of more than 50 feet or less than 35 feet will require prior approval by BLM. The lessee will submit documentation to the AO showing reduced pillar size will not result in any long-term surface subsidence. The AO must approve changes in surface pillar size prior to any changes.

3. **Quarterly Production Maps.** The lessee will submit maps quarterly to the BLM Utah State Office of the BLM showing the amount of gilsonite removed in the previous quarter. These will be submitted by January 15th, April 15th, July 15th and October 15th. The maps will be scaled and show the depth of cut and the thickness of the vein at intervals that can be used to verify production. These maps shall be certified by a registered engineer, land surveyor or an official of the company.

4. **Yearly Mining Plan.** By January 15th of each year, the lessee will submit a one-year mine plan to the BLM Utah State Office showing the proposed mining sequences for the coming year on a scaled map. The one-year plan will describe the extraction sequence and the projected tonnages of ore to be extracted for that year.

5. **Lease Boundary Marking.** The lessee will mark the corners of the boundary of the lease with metal fencing posts and metal painted signs at each corner of the lease. The signs will show as a minimum the legal subdivision and the Federal gilsonite lease number. These signs will be located by survey. A scaled copy of this survey (map) will be sent to BLM Utah State Office 180 days after the start of construction of surface facilities.

6. **Groundwater.** Should groundwater flow be encountered in quantities greater than 5 gallons per hour during mining operations, the lessee/operator shall contact the Utah State Office Mining Engineer(801- 539-4036) and the Vernal Field Office Hydrologist or Geologist (435-781-4400) within 24 hours of the encounter and report on the following:

- 1) True vertical encountered depth
- 2) Subsurface location at which it was encountered
- 3) The approximate flow rate into the mine
- 4) Association of flow with any major geologic feature such as a fault or fracture surface.

Based upon this information, the AO will determine if the lessee will be required to monitor the effect of the flow into the mine on any nearby wildlife, or stock wells. If such wells are affected the AO may require the lessee to supply replacement water to the affected stock or wildlife ponds.

All groundwater flows encountered in the mine shall be sampled and analyzed for major cations, anions, total dissolved solids, pH, total suspended solids, oil and grease and pheynols (See Enclosure 2). The lessee shall follow the rules and regulations of the State of Utah pertaining to the sampling parameters for pollutants and surface effluent discharges from the proposed Gilsonite mine (Utah Administrative Code, August 4, 1995, R317-1.2: General Requirements: R317-8.3: Application Requirements (for a UPDES Permit: R317-6-2:Ground Water Quality Standards). Results from these analyses and sampling parameters for pollutants as required by the State of Utah shall be provided to the Vernal District office Hydrologist (Vernal District Office, 170 L., 500E., Vernal, Ut. 84078) and Utah State Office Mining Engineer (USO, P.O. Box 45155, Salt Lake City, Ut., 84145-0155) within 30 working days of encountering the water.

7. **Signage.** The lessee shall maintain a sign on the outside the hoist house at the working site that lists the Federal lease number.

8. **Shaft Sealing.** Final designs shall be submitted and reviewed by BLM prior to seal construction. The collar and other structures shall be removed.

Concrete Seals: The final concrete seal over openings that penetrate the surface must conform to the following as a minimum:

Bedrock - If the seal is to be in an exposed rock outcrop, the top of the seal shall be constructed so as to conform with the contour of the outcrop and shall be no higher than the adjacent rock. The color of the concrete shall be of such a color as to blend in the surrounding rock outcrop. The bottom of the seal shall sit on bedrock and shall be placed in the Gilsonite.

Soil Area- If the shaft seal is to be in an area where soil will cover the shaft seal, the top of the seal shall be placed in bedrock so that the shaft seal is a minimum of 4 feet below the top of the of soil cover. There shall be no alluvial material between the shaft cover and the Gilsonite in the vein and the seal must be in-bedded in the Gilsonite on the vein side of the cover.

9. **Mining Under the Highway.** Prior to commencement of mining within 100 feet of the highway, Ziegler must notify the AO of its intent to mine under the highway and must submit additional information to BLM concerning timing, vein width, Gilsonite depth and surface pillar to be left. BLM will approve/disapprove this site specific highway crossing with this additional information. Ziegler must not cross the UDOT Right-of-Way prior to further BLM approval.

10. **Cultural Resources.** A Class III archeological survey has been conducted. All personnel will refrain from collecting artifacts and from disturbing any significant cultural resources in the area. The lessee is responsible for informing all persons in the area who are associated with this project that they may be subject to prosecution for knowingly disturbing historic or archaeological sites or for collecting artifacts. All vehicular traffic, personnel movement, construction, and restoration activities shall be confined to the areas examined, as referenced in the archaeological report, and to the existing roadways and/or evaluated access routes. If historic or archaeological materials are

uncovered during construction, the lessee is to immediately stop work that might further disturb such materials and contact the Authorized Officer (AO).

Within five working days after contacting the BLM, the AO will inform the lessee as to: 1) whether the materials appear eligible for the National Historic Register of Historic Places; 2) the mitigation measures that the lessee will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and, 3) a time frame for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate.

If the lessee wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the lessee will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the Authorized Officer (AO) that required mitigation has been completed, the lessee will then be allowed to resume activities.

11. **Paleontology.** The lessee shall stop construction activities and notify the AO if paleontological resources (vertebrate fossils) are exposed or identified during construction or mining. The BLM will provide mitigation measures to allowing construction or mining. Costs of mitigation will be borne by the lessee.

12. **Containment Berm.** No topsoil from the lease shall be used in the construction of the containment berm on the low side of the shaft and ore bin area.

13. **Noxious Weeds.** The lessee will control noxious weeds on areas disturbed by mining and on adjacent undisturbed lands which will extend 50' beyond the disturbance. The lessee will control weeds that the Utah Commissioner of Agriculture so designates in the future, up to the time that final reclamation on the lease is found to be to the satisfaction of the BLM. If herbicides or other pesticides or possibly hazardous chemicals are to be used, it is required that a Pesticide Use Proposal be submitted by the lessee and approved by the AO prior to any application.

UTAH NOXIOUS WEEDS The Utah State Commissioner of Agriculture has officially designated 18 species listed below as noxious in the State of Utah.

COMMON NAME

Bermudagrass
Field Bindweed
Broad-leaved Pepperweed
Canada Thistle
Diffuse Knapweed
Dyers Woad
Perennial Sorghum spp.

SCIENTIFIC NAME

Cynodon dactylon (L.) Pers.
Convolvulus spp. (Wild Morning-glory)
Lepidium latifolium L. (Tall Whitetop)
Cirsium arvense (L.) Scop.
Centaurea diffusa Lam.
Isatis tinctoria L.
including but not limited to Johnson Grass
(*Sorghum halepense* (L.) Pers. and *Sorghum Almum*
(*Sorghum alnum*, Parodi)

COMMON NAME

Leafy Spurge
 Medusahead
 Musk Thistle
 Quackgrass
 Russian Knapweed
 Scotch Thistle
 Spotted Knapweed
 Squarrose Knapweed
 Whitetop
 Yellow Starthistle
 Purple loosestrife

SCIENTIFIC NAME

Euphorbia esula L.
Taeniatherum caput-medusae (L.) Nevski
Carduus nutans L.
Agropyron repens (L.) Beauv.
Centaurea repens (L.)
Onopordium acanthium L. (Cotton Thistle)
Centaurea maculosa Lam.
Centaurea squarrosa Roth
Cardaria spp.
Centaurea solstitialis L.
Lythrum salicaria

14. **Reclamation.** A seeding and grading plan and schedule will be submitted and approved by the AO prior to finalizing the reclamation. All disturbed areas will be reclaimed with native plant species. The seed mixture will be provided by the AO. Reclamation will not be accepted until the disturbed lands have the same plant composition and density as the surrounding lands. The reclamation bond will not be released until the AO accepts the reclamation in writing. Concurrent reclamation practices will be used.

Topsoil will be stripped and salvaged to provide for sufficient quantities to be re-spread to a depth of at least four to six inches (or more if readily available on-site) over the disturbed areas to be reclaimed. Topsoil will be stockpiled separately from subsoil materials. Topsoil to be stored for more than one year will be: 1) windrowed, where possible, to a depth of three to four feet near the margin [other than the margin with the run-off berm] of the north vein mine site ; and 2) broadcast seeded with the prescribed seed mixture furnished by the AO immediately after windrowing, promptly followed by a dozer or other tracked vehicle "walking" the windrow to cover the broadcast seed. For the windrowing the following pure live seed mixture will be utilized and must be, noxious weed free as per Utah Department of Agriculture regulation R-68-8-2.

Common Name	Scientific Name	Pound per acre
Shadscale saltbrush	<i>Atriplex confertifolia</i>	3
Big sage brush	<i>Artemisia tridentate</i> ssp. <i>Wyomingensis</i>	3
Galleta grass	<i>Hilaria jamesii</i>	2
Forwing saltbush	<i>Atriplex canescens</i>	4

Mulching may be one method considered to enhance the re-establishment of desired native plant communities. If straw or hay mulch is used, the straw and hay must be certified to be weed-free and the documentation submitted to the AO prior to usage.

Upon the completion of mining operations, all equipment and facilities shall be removed. All waste rock will be dumped into the north vein production shaft before it is sealed. If waste rock is to be left, the lessee must show that it will not contaminate the surrounding area and that there is sufficient topsoil (i.e., greater than 6 inches to cover the rock. All materials left in the mine

will be reported to the AO prior to removal of the ability to descend down the shaft via the hoist and bucket. Written approval shall be obtained by the AO to leave the materials in the mine.

The disturbed areas will be reshaped to approximate the original [pre-disturbance] contour. Stockpiled topsoil shall be spread over the re-contoured areas.

15. **Stipulation Waiver.** Any of these stipulations may be waived by the authorized officer (AO) if either the resource values change or the lessee/operator demonstrates to the satisfaction of the (AO) that adverse impacts can be mitigated.

In addition, the following approval conditions apply;

New Conditions of Approval

1. **Reclamation:** Reclamation will be required on all disturbed areas including the area of the new hoist house on the CNV-1 shaft and all facilities on the C-4 shaft.
2. **Noxious Weeds:** In addition to the Noxious Weeds listed in Stipulation “#13 (above)” the lessee is responsible to control all Noxious Weeds listed by the Utah County Weed Department. At the current time the only other plant species that is in addition to the list stated in Stipulation 13 Noxious Weeds is the species Russian Olive [*elaagnus commutate*].
3. Submittals addressed in original terms shall be directed to Chief Solid Minerals Branch.

Notice(s)-

1. Any exploration or additional activities not included in the Mine Plan Approval must be approved by the BLM prior to commencement.
2. Should mining conditions warrant a change to your mine plan approval (mining and reclamation plan), you must submit, in writing a request for modification to the Utah State Office (attn: Mr. Stan Perkes) and receive a written approval prior to conducting the proposed modification(s).
3. Ziegler will advise all of its employees that they are operating in a black-footed ferret reintroduction area, and that any ferret sightings should be reported to the Utah Division of Wildlife and the US Fish and Wildlife Service.
4. Ziegler has been authorized to conduct exploration (and reclamation of such) operations pursuant to an October 27, 1999, Authorized Officer approval. The terms of the approval of the exploration plan is **not** effected by the subsequent approval of a mine and reclamation plan.

Bond- The Lessee has a \$120,000 bond in place. It appears that BLM has sufficient bonding to cover the liabilities for reclamation, rentals and royalties. A new bond schedule will determine the exact requirements. BLM may adjust the bond amount at any time.

Appeal Rights- You have 30 days to appeal this approval to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and Form 1842-1 (enclosed). If an appeal is taken, your notice of appeal must be filed in this office within 30 days

following the date of this approval. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

For further information contact Mr. Stan Perkes, (801) 539-4036.

Sincerely,

James F. Kohler

James F. Kohler
Chief Solid Minerals

Enclosure

Form 1842-1 (1 p)
Water Measurements
Map

bc: Central Files
Vernal Field Office
Utah Division of Oil, Gas, and Mining (Attn. Doug Jensen, 1594 West North Temple, P.O. Box 145801, Salt Lake City, Utah, 84114-5801
Mr. Stan Wagner, Star Route, Vernal Utah, 84078
Files - UTU-011580
Chron File, UT-931, SPerkes, SPerkes:sa:05/19/03:Mine Files/Ziegler/011585/C-4modapp

Enclosure 2.

Water measurements for encountering water during drilling and/or mining.

Measurements	Reported As
Water level or Flow	Depth, CFS, CFM
pH	Standard Units
Total Dissolved Solids (TDS)	mg/L
Total Suspended Solids (TSS)	mg/L
Oil and Grease	mg/L
Aluminum (Total)	ug/L
Iron (Total)	ug/L
Antimony (Total)	ug/L
Arsenic (Total)	ug/L
Beryllium (Total)	ug/L
Cadmium (Total)	ug/L
Chromium (Total)	ug/L
Copper (Total)	ug/L
Mercury (Total)	ug/L
Nickel (Total)	ug/L
Seleium (Total)	ug/L
Silver (Total)	ug/L
Thallium (Total)	ug/L
Zinc (Total)	ug/L
Cyanide (Total)	ug/L
Phenols (Total)	ug/L

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE
NOTICE OF APPEAL

SOLICITOR
ALSO COPY TO

3. STATEMENT OF REASONS . . . Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR
ALSO COPY TO

4. ADVERSE PARTIES Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).

5. PROOF OF SERVICE Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a))

SUBPART 1821.2--OFFICE HOURS; TIME AND PLACE FOR FILING

Sec. 1821.2-1 *Office hours of State Offices.* (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight saving time, whichever is in effect at the city in which each office is located.

Sec. 1821.2-2(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office or the Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

* * * * *

Ziegler 0115850

